

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,

Petitioner,

vs.

Civil Action 2:09-CV-852  
Judge Sargus  
Magistrate Judge King

JOHN ALLEN,

Respondent.

ORDER

Petitioner filed a motion to hold respondent in contempt, Doc. No. 38, and a hearing on that motion was scheduled for August 1, 2011, Order, Doc. No. 43. Thereafter, the matter was referred to Magistrate Judge Elizabeth Preston Deavers for a report and recommendation. Order, Doc. No. 44.

On August 8, 2011, the Magistrate Judge recommended that petitioner's motion be denied without prejudice to renewal in light of the fact that respondent had not received notice of the hearing because of his incarceration. *Report and Recommendation*, Doc. No. 47. Respondent also filed a motion to stay the proceedings, Doc. No. 45, and a supplemental motion to stay, Doc. No. 48. Petitioner opposes respondent's requests to stay. Doc. No. 51.

Although the parties were advised of their right to object to the *Report and Recommendation*, and of the consequences of their failure to do so, there has been no objection to the *Report and Recommendation*.<sup>1</sup>

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<sup>1</sup>Although respondent represents that he did not receive a copy of the *Report and Recommendation*, Doc. No. 52, at p. 2, he also "believes that Mag. Judge Deavers is correct in said R&R." *Id.*

The *Report and Recommendation*, Doc. No. 47, is therefore **ADOPTED and AFFIRMED**. Petitioner's motion to hold respondent in contempt, Doc. No. 38, is **DENIED** without prejudice to renewal.

In his motions to stay, respondent represents that he began "serving the remainder of a 9 month sentence from 2005," Doc. No. 45, at p. 1, and that he expects to undergo surgery to remove a kidney and to repair a herniated disc in his neck, Doc. No. 48, at p. 1. Respondent does not specify when he will be released from confinement; he expects to undergo kidney surgery in "early Sept., 2011 while Mr. Allen is still in jail," Doc. No. 52, at p. 1. He asks that the matter be stayed "until after Mr. Allen's surgeries and he is healthy enough to attend a full evidentiary hearing in the above matter." Doc. No. 48, at p. 1.

Although the Court is willing to stay further proceedings for a reasonable amount of time, the Court will not stay the matter indefinitely. Because respondent has failed to provide sufficient information to enable the Court to meaningfully evaluate his motions to stay, those motions, Doc. Nos. 45, 48, are **DENIED** without prejudice to renewal.

Should respondent renew his motions to stay, he must provide to the Court and to counsel for petitioner a statement from his physician(s) indicating when surgery is contemplated and the expected period of recuperation. Respondent must also specify the date of his release from incarceration.

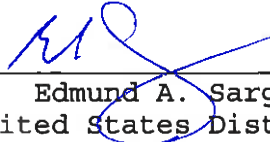
This Order resolves all pending motions. The Clerk is **DIRECTED** to remove those motions from the Court's pending motions list.

The Clerk is also **DIRECTED** to change respondent's address as requested by him in Doc. No. 52:

John Dale Allen  
c/o 28 N. 4<sup>th</sup> St. - SB4  
Zanesville, OH 43701

Finally, the Clerk is DIRECTED to mail a copy of the Report and Recommendation to respondent at his new address.

8-25-2011  
Date

  
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Edmund A. Sargus, Jr.  
United States District Judge